

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

v.

RICHARD J. McWHORTER,  
Defendant.

No. CV-06-5009-FVS

ORDER

**THIS MATTER** comes before the Court for consideration of four motions. The plaintiff is represented by Timothy M. Durkin; the defendant by JoAnne G. Comins Rick.

**RULING**

1. The United States' motion for additional time (**Ct. Rec. 18**) is **GRANTED**.

2. The Court declines to convert defendant Richard McWhorter's motion to dismiss into a motion for summary judgment.

3. Mr. McWhorter's motion to dismiss (**Ct. Rec. 8**) is **DENIED** because the United States may be able to prove that the Federal Aviation Administration issued and served the order(s) upon which this action is based. *See, e.g., Thinket Ink Infor. Res., Inc. v. Sun Microsystems, Inc.*, 368 F.3d 1053, 1061 (9th Cir.2004); *Williamson v.*

1 *Gen. Dynamics Corp.*, 208 F.3d 1144, 1149 (9th Cir.2000)).

2 4. The United States' motion to amend (**Ct. Rec. 22**) is **GRANTED**.  
3 *Provided, the amended complaint shall clearly identify each order upon*  
4 *which the action is based and a copy of each order shall be attached*  
5 *to the amended complaint.*

7 5. The United States' motion for a continuance (**Ct. Rec. 27**) is  
8 **DENIED AS MOOT.**

10 **IT IS SO ORDERED.** The District Court Executive is hereby  
11 directed to enter this order and furnish copies to counsel.

12 **DATED** this 10th day of May, 2006.

13  
14 s/ Fred Van Sickle  
Fred Van Sickle  
15 United States District Judge  
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